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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/089,474 | 08/19/2002 | Helmut Ulmer | SPM-344-A | 1141 |

7590

09/02/2004

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| EXAMINER |
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RHEE, JANE J

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| ART UNIT | PAPER NUMBER |
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1772

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,474

Applicant(s)

ULMER, HELMUT

Examiner

Jane Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Rejections Withdrawn

1. The 35 U.S.C. 102(b) rejection of claims 1-2,4-6 anticipated by Leonhard et al. has been withdrawn due to applicant's arguments in response 6/21/2004.
2. The 35 U.S.C. 103(a) rejection of claim 3 over Leonhard et al. in view of Rahmstorf et al. has been withdrawn due to applicant's arguments in response 6/21/2004.

Response to Arguments

3. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

New Rejections

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2,4-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawakubo et al. (6065771).

Kawakubo et al. discloses a decorative film (figure 14 number 104) which can be foam-backed (figure 14 number 101) used in vehicle interiors (col. 1 line

7) and has in the penetration area of an airbag a break line predetermined by a cross-sectional weakness (figure 14 number 105), the cross sectional weakness being a notch (figure 14 number 105) closed by the material of the decorative film (figure 14 number 100) on the side remote from the foam backing (figure 14 number 101), characterized in that the side of the notch facing the foam backing is closed at the surface by a welded region of an outer layer (figure 14 number 100), consisting of thermoplastic material, of the decorative film (col. 1 line 62). Kawakubo et al. discloses that the cross sectional weakness is a continuous internal notch (figure 14 number 105) following the course of the break line at least partially (figure 14 number 105). Kawakubo et al. discloses that the decorative film is constructed of at least two layers disposed on the side which can be foam-backed consisting of thermoplastic material (figure 14 number 104,102). Kawakubo et al. discloses a moulded decorative film (figure 14 number 104), one side of the film backed by foam (figure 14 number 101), the film comprising a cross sectional weakness for penetration of an airbag defined by a notch in the film (figure 14 number 105), the notch closed at the side backed by the foam (figure 14 number 101). Kawakubo et al. discloses that the film is constructed of two layers (figure 14 number 102,104), a first layer connected to the film (figure 14 number 104) and a second layer forming a visible side of the film (figure 14 number 102) and wherein the notch extends through portions of the first and second layers (figure 14 number 104,102,105) and portions of edges defining the notch in the first layer are together for closing one end of the notch

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adjacent the foam (figure 14 number 105). Kawakubo et al. discloses taht the first layer is thermoplastic material (col. 1 line 62).

The thermoplastic material skin produced by thermoforming or form-sintering or produced by injection, casting or spraying process is a process limitation, process limitations are given little or no patentable weight. The method of forming the product is not germane to the issue of patentability of the product itself. Further, when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claim in a product-by-process claim, the burden is on the Applicant to present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. *In re Brown*, 459 F.2d 531, 173 USPQ 685 (CCPA 1972); *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974). This burden is NOT discharged solely because the product was derived from a process not known to the prior art. *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakubo et al. in view of Rahmstorf et al. (6106003).

Kawakubo et al. discloses the decorative film described above.

Kawakubo et al. fail to disclose that the cross sectional weakness is a row of a large number of individual internal notches following the course of the break line at least partially. Rahmstorf et al. teaches the cross sectional weakness is a row of a large number of individual internal notches following the course of the break line at least partially (col. 5 lines 5-8) for the purpose of improving the technique of tearing open of the cover (col. 4 lines 12-13).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Kawakubo et al. with the cross sectional weakness is a row of a large number of individual internal notches following the course of the break line at least partially in order to improve the technique of tearing open of the cover (col. 4 lines 12-13) as taught by Rahmstorf et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

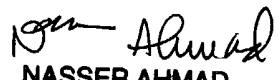
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Ahmad can be reached on 571-272-1487. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
August 27, 2004


NASSER AHMAD
PRIMARY EXAMINER
8/30/04